IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

Bail Appl..No. 4951 of 2007()

CRIME NO. 430/07 OF KASARAGOD POLICE STATION

PETITIONER/ACCUSED:

M. ACHUTHAN, AGED 37 YEARS,
S/O. NARAYANAN NAIR, ANINHA, KOLIYADUKAM,
KASARAGOD, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT & STATE:

---

1. STATE - REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. THE STATION HOUSE OFFICER
(CRIME NO.430 OF 2007 OF KASARAGOD POLICE STATION)
KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 4951 of 2007

- -

Dated this the 18th day of August, 2007

O R D E R

Application for anticipatory bail. The petitioner is the sole accused in a crime registered initially under Sections 498A and 307 I.P.C. The crime has been registered on the basis of a private complaint filed by the defacto complainant. The petitioner is the husband of the defacto complainant. Their marriage took place on 26.6.2002. The couple are blessed with one child. There is some strain in the matrimonial relationship. The petitioner has no job. His brothers-in-law had secured an employment abroad, but he was dissatisfied with that job and he had come back to India.

2. The defacto complainant was admitted to the hospital having consumed furidan, a poison. Though initially no allegations were raised against the petitioner/husband, subsequently in the private complaint filed, allegation was raised that the petitioner has forcibly administered poison to her. That complaint was referred to the police. Thus crime has been registered under Sections 498A and 307 I.P.C. In the course of investigation the police have now come

to the conclusion that the allegation under Section 307 I.P.C. has been raised belatedly by the complainant probably in an attempt to claim exculpation from the offence for consuming poison. At any rate, Section 307 I.P.C. is not now raised. Report to drop that allegation has already been filed. What remains is only an allegation under Section 498A I.P.C. There is evidently some strain in the matrimonial relationship and on account of such strain, fanciful, false and exaggerated allegations are being made against the petitioner, submits the learned counsel. It is prayed that anticipatory bail may be granted to the petitioner.

3. The learned Prosecutor does not oppose the application. I reckon that as a fair and reasonable stand. Arrest and incarceration of the petitioner is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 25.8.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/-

(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 30.8.2007 and 31.8.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 25.8.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 25.8.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 25.8.2007.

(R. BASANT)
Judge

tm